

IN THE HIGH COURT OF TRAVANCORE-COCHIN AT KERALA.

Present:-

X The Hon'ble Shri K.T. Kosai, Chief Justice
and
The Hon'ble Shri Joseph Vithayathil, Judge.

A.S. No. 6 of 1953.

C.S. No. 89 of 1943 on the file of Alleppey District Court.

Appellant:- Plaintiff.

Krishna Kameswari Nageshchandra Kameswari of Kaidarezhathur Madam,
Pedinjattukara Vadakkum Muri, Thiruvavoor.

By Advocate Shri S. Narayanan Potti.

Respondents:- Defendants 1 to 7.

1. Marasiahai Pai Kase Pai of Ponnayalikkattam alias Kandaswaram-
pill residing at Velappersambal, Kodamthuruthu Muri, Thiruvavoor
Vadakkum Muri (Died - heirs Defendants 2 and 3).
2. Valsara Pai Kase Pai of do. do.
3. Srinivasa Pai called as Valsara Pai Vithayathil Pai of do.
4. Janakavathi Pai wife of 2nd respondent of do. do.
5. Vittala Vaidhar called as Annasa Vaidhar Vithappa Vaidhar resid-
ing at Chirumalathelkka Mada, Pedinjattukara, Vadakkum Muri,
Thiruvavoor.
6. Anantha Vaidhar Vithappa Vaidhar of do. do.
7. Kandaswara Kameswari (Sivinda Kandaswari of Kaidarezhathur, do. Muri,
Kase Mada) Krishna Pillai of Kaidarezhathur residing at Chirumalathelkka
Mada, do. Muri is the guardian.

Respondent 2 by Advocate Shri ~~K. V. Narayanan~~
N. Varadaraja Iyengar.

This Appeal suit having been finally heard on 25-11-1954, this
court on the same day delivered the following:-

JUDGMENT.

The lower court declined to pass a decree for rent for 18 years
charged on the equity of redemption on the ground that even though the
lease deed provided for a charge for arrears that would apply only to
the period of the lease fixed by the ~~deed~~ ^{deed} and not to the case of
holding over. The cases followed by the learned Judge in support of
this view have all been considered in a recent Full Bench decision of
this court in A.S. 101/52 where it was held that such a term really
formed part of the lease arrangement and would ensure even for the period
of the holding-over. In view of this decision the learned counsel for
the respondent had to ~~concede~~ ^{concede} that the appeal has to be allowed.
Accordingly we modify the lower court's decree by granting a decree

for arrears for all the 12-years as claimed in the plaint and charged on the equity of redemption over the plaint schedule properties.

In the circumstances of the case we make no order for costs in the appeal, the appellant will get his entire costs in the first court.

85/- K. E. Koshi, C.Jr.

86/- Joseph Vithayathil, J.

25-11-1954.

Compared by
De. Lalit
M. K. M. P. H.

(True Copy).

Joseph Vithayathil
By Registrar,
for Registrar.

A.S. No. 61 of 1952.

Copy of Judgment.

A.S. 6/52